



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 8, 1991

Mr. Philip W. Barnes
Commissioner
Texas Department of Insurance
333 Guadalupe Street
P.O. Box 149104
Austin, Texas 78714-9104

OR91-475

Dear Commissioner Barnes:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13472.

The Texas Department of Insurance has received a request for a "Commissioner's Directive dated April 1, 1991 entitled: TO ALL COMPANIES WRITING WORKERS' COMPENSATION COVERAGE IN TEXAS AND THEIR AFFILIATES." You maintain that the requested document is presently incomplete and is therefore excepted from required public disclosure under section 3(a)(11) of the Open Records Act.

We have considered the exceptions you claim and have reviewed the documents submitted to us. Previous open records decisions issued by this office resolve your request. Section 3(a)(11) excepts from required public disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency." Open Records Decision No. 559 (1990) held that

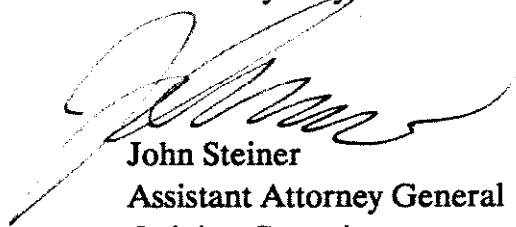
where a document is genuinely a preliminary draft of a document that has been released or is intended for release in a final form, the draft necessarily represents the advice, opinion, and recommendation of the drafter as to the form and content of the final document. In such an

instance, the draft itself, as well as comments made on the draft, underlining, deletions, and proofreading marks would qualify for exemption under section 3(a)(11). Purely factual matter, where severable, must be released.

Accordingly, the draft report submitted to us may be withheld. However, this should not be considered a determination that the underlying statistical data from which the draft report is being compiled may be withheld should a request be received for the information.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-475.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/GK/lcd

Enclosures: Open Records Decision No. 559

Ref.: ID#s 13472, 13639

cc: Ms. Candy Huber
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